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October 16, 2002

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By Hand Delivery

OCT 17 2002

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY



Re: Corning Incorporated *Ex Parte* Presentation in  
**CC Docket, No. 01-336**, Review of the Section 251  
Unbundling Obligations of Incumbent **Local** Exchange  
Carriers

Dear Ms. Dortch:

This is to inform you that on Wednesday, October 16, 2002, a group representing Corning Incorporated (hereinafter referred to as "Corning") met with numerous FCC officials to discuss the above-cited NPRM. The Corning representatives included Timothy J. Regan, Senior Vice President, Corning Incorporated; Stephen B. Brodeur, President, Cambridge Strategic Management Group; and Edward W. Naeff, Associate, Cambridge Strategic Management Group.

The Corning representatives met with the following FCC officials:

- Shanti Gupta, Office of Engineering and Technology, Network Technology Division
- Jeremy Miller, Wireline Competition Bureau, Competition Policy Division
- William W. Sharkey, Senior Economist, Office of Plans and Policy
- Daniel R. Shiman, Wireline Competition Bureau, Competition Policy Division
- Jerome Stanshine, Office of Engineering and Technology, Network Technology Division
- Donald K. Stockdale, Jr., Director of Research, Office of Plans and Policy

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- Robert Tanner, Wireline Competition Bureau, Competition Policy Division
- Julie Veach, Wireline Competition Bureau, Competition Policy Division
- Simon Wilkie, Chief Economist, Office of Plans and Policy

Topics addressed during the course of these meetings are summarized in the attached presentation.

In accordance with Section 1.1206, I am filing two copies of this notice and request that you place it in the record of the proceeding cited above.

If you have any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

  
Timothy J. Regan  
Timothy J. Regan

Senior Vice President

CC: Shanti Gupta  
Jeremy Miller  
William W. Sharky  
Daniel R. Shinian  
Jerome Stanshine  
Donald K. Stockdale, Jr.  
Robert Tanner  
Julie Veach  
Simon Wilkie

Enclosures

Fiber in the Loop, 10/16/02  
CSMG Study, 4/5/02

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## Fiber in the Loop Networks Should be Free from Unbundling

Timothy J. Regan  
Senior Vice President  
October 16, 2002



### Corning's public policy platform

#### Recommendations --

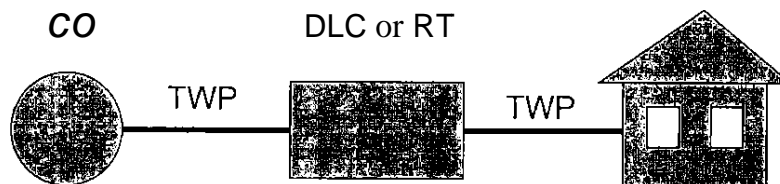
- Relieve fiber in the loop from the unbundling requirement in Section 251(c)(3)
- Pre-empt state authority to change the unbundling requirements
- Regulate voice service, but deregulate broadband service

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## Corning's Public Policy Platform

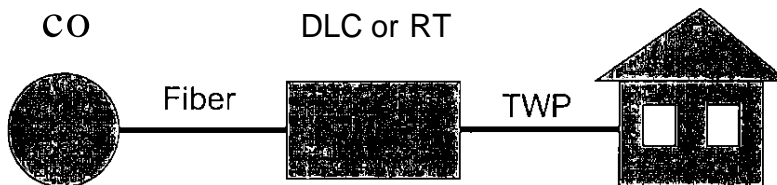
### I. Copper Loop



- No change from current rules

## Corning's Public Policy Platform

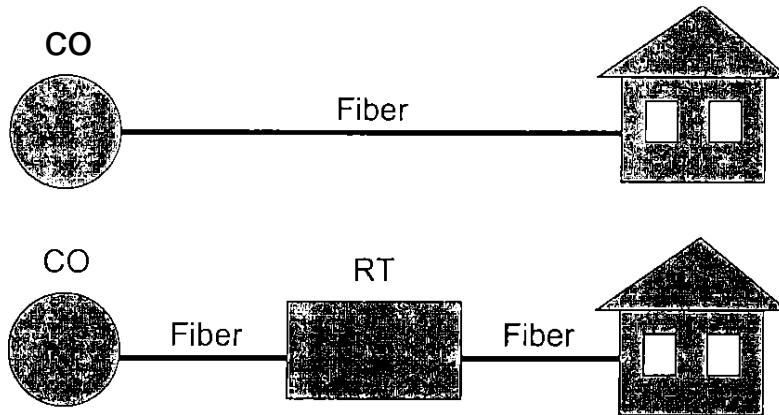
### II Hybrid Copper-Fiber Loop



- No change in current regulations if loop is deployed before a date certain (e.g., January 1, 2003)
- If the loop is deployed after a date certain, it is not unbundled (i.e., neither the fiber, RT, DLC, nor TWP are unbundled)
- High-Tech Broadband Coalition's approach

## Corning's Public Policy Platform

### III. Fiber Loop



- No elements of the loop are **unbundled**

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## Corning's public policy platform

### Legal rationale

Rationale --

- Lack of access to fiber in the loop will not "impair" a CLEC's ability to provide service
- FCC regs (Section 51.317(b)(i)) -- FCC will find impairment if lack of access "materially diminishes" a requesting carrier's ability to provide service, taking into account:
  - Alternative elements outside the incumbent's network
  - **Degree of self-provisioning by the requesting carrier** (emphasis added)
  - Alternative access from a third party

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## Corning's public policy platform

### Legal rationale

- CLECs have demonstrated their ability to "self-provide" fiber to the home

	Homes Passed by FTTH	Percent of Total
CLECs	44,890	67.0%
Small ILECs	3,600	5.4%
RBOCs	400	0.6%
Munis	18,100	27%
Total	66,990	100%

## Corning's public policy platform

### Legal rationale

#### Rationale --

- FCC regs (51.317(c)) states that the Commission may consider the following factors in deciding whether to require unbundling of any network element:
  - (1) whether unbundling the element will "promote the rapid introduction of competition";
  - (2) whether unbundling promotes "facility based competition";
  - (3) whether unbundling promotes "reduced regulation";
  - (4) whether unbundling provides "certainty" to the requesting carrier; and
  - (5) whether unbundling is "administratively practical."

## Corning's public policy platform

### Legal rationale

Response --

- Re.(1), relieving fiber in the loop from the unbundling requirements will actually increase competition as ILECs deploy fiber to compete against the cable television's provision of integrated voice, data, and video service, a market which today is dominated by cable
- Re.(2), relieving fiber in the loop from the bundling requirement will enhance facilities-based competition as ILECs deploy fiber to compete against cable

## Corning's public policy platform

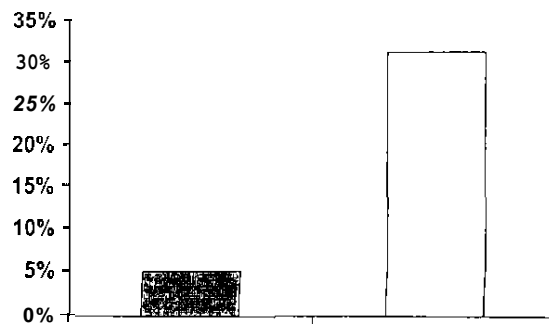
### Legal rationale

- Re.(3), relieving fiber in the loop of the unbundling requirement will reduce regulation
- Re.(4), this is admittedly a weakness for deregulating fiber in the loop
- Re.(5), it is not administratively practical to unbundle fiber in the loop because no one has found an easy way to do line sharing on fiber. For example, the system has to be shut down to add each new customer

## Corning's public policy platform

### Policy rationale

- Other reasons to relieve fiber in the loop from unbundling:
  - Can't unbundle a facility that doesn't exist
  - **All** carriers are in the same position to compete
  - Will enhance competition between ILECs and CATV
  - Will increase investment 6X according to CSMG study



Source: CSMG Assessing the Impact of Regulation on Deployment of FTTH, April 5 '02

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## Corning's public policy platform

### Other supporters

- Fiber to the Home Council
- Atlantic Engineering Group
- Ciena Corporation
- Iambs Networks, Inc.
- Intertainer, Inc.
- Pacion
- Pirelli Communications Cables and Systems North America
- Eagle Broadband
- ZERO dB

DOCKET NO. 01-336

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1. Two copies of a copyrighted Cambridge Strategic Management Group Study
2. One diskette